



Appeal Decision

Site visit made on 17 August 2015

by **K R Seward Solicitor**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 September 2015

Appeal Ref: APP/J1915/W/15/3016566

Land East of Cambridge Road, Puckeridge, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by The Co-operative Group against the decision of East Hertfordshire District Council.
 - The application Ref 3/14/1627/OP, dated 5 September 2014, was refused by notice dated 10 December 2014.
 - The development proposed is outline application including details of access for up to 24 residential dwellings and provision of public open space, landscaping, parking and associated works.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 24 residential dwellings and provision of public open space, landscaping, parking and associated works at Land East of Cambridge Road, Puckeridge, Hertfordshire in accordance with the terms of the application, Ref 3/14/1627/OP, dated 5 September 2014, subject to the conditions set out in the Schedule at the end of this Decision.

Procedural Matters

2. I have utilised the address given in the Appeal Form and Council's decision notice as only the grid reference appears in the original application.
3. The application was made in outline with all matters reserved for future determination, except for access. The Council has raised no objection to the proposed access and whilst noting concerns from the Parish Council, I have no reason to disagree. A 'masterplan' showing a possible layout was submitted with the application. This is annotated as being illustrative only and I have considered it on that basis.
4. A completed unilateral undertaking (UU) made under Section 106 of the Town and Country Planning Act 1990 (as amended) was submitted by the appellant during the course of the appeal. This makes financial provision for various types of local infrastructure together with on-site affordable housing and play space. I return to this matter below.
5. Following its decision to refuse planning permission, the Council resolved not to pursue its reason for refusal concerning flood risk. In light of the advice from the Environment Agency, which seeks conditions only, I agree that stance.

Main Issues

6. The main issues are:-

- the effect of the development on the character and appearance of the surrounding area, having particular regard to the pattern of development and its countryside location.
- whether the proposal for housing in this location comprises sustainable development having regard to the development plan and the National Planning Policy Framework (the Framework).

Reasons

7. The appeal site comprises around 1.9 hectares of Grade 3 agricultural land located to the west/south-west of the village of Puckeridge, not far from the A10 road. It is within the rural area beyond the Green Belt as defined within the East Herts Local Plan Second Review (LP), 2007. There is a short row of housing and flats to the south of the appeal site referred to as 'Shenley' with housing immediately to the north for the main settlement of Puckeridge.

Policy background

8. There is no dispute that the Council cannot currently demonstrate a deliverable 5 year housing land supply. The starting point for the consideration of this appeal is therefore Paragraph 49 of the Framework. This makes clear that *housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to be up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.*
9. It follows that the Council's Policies LP GBC2 and GBC3 cannot be considered up-to-date insofar as they seek to restrict the circumstances in which development within the rural area outside the Green Belt can be undertaken. Thus, the location of the appeal site outside of the settlement boundary is not determinative on its own in relation to this appeal. In terms of their underlying countryside protection aims, I concur with the Inspector in the linked appeals for Hare Street Road, Buntingford¹ that GBC2 and GBC3 align with objectives in the Framework.
10. Paragraph 14 of the Framework indicates that the presumption in favour of sustainable development means that *for decision taking, where the development plan is absent, silent or the relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

Issue 1 - Character and appearance

11. The appeal site is a long and narrow strip of land stretching alongside Cambridge Road. It is unused and has become overgrown. Its long highway frontage is bounded by dense hedgerow and trees severely restricting views into the site. The opposite side of the road is similarly bound. It is this green frontage which forms a defining characteristic of the appeal site. With dwellings located to the south and north, the appeal site provides physical and visual

¹ Appeal Refs: APP/J1915/A/13/2205582, 2205581 & 2199777

- separation between the housing within and outside the village settlement. However, given the enclosed nature of the frontage, it does not contribute openness to the street scene nor can it be described as an important gap.
12. The site falls within an area identified as High Cross Plateau landscape character area within the Council's Landscape Character Assessment Supplementary Planning Document. This describes its key characteristics as including gently undulating arable land, filtered views out from and along the A10 with limited views elsewhere, filtered by hedgerow vegetation.
 13. The proposed vehicular access onto Cambridge Road would necessitate removal of a central section of the hedgerow with two smaller areas allowing pedestrian access. The remainder of the hedgerow could be left mostly intact thereby preserving the verdant character of this part of the road and maintaining a visual break between buildings. Thus, its role as a green wedge could still be effective through its boundaries of hedgerow and trees. This would be a matter for future consideration by the Council.
 14. The illustrative layout shows how the housing could be accommodated within the site in two long parallel rows towards the front of the site to allow for the undulating topography. A wide green buffer behind the housing is shown and this could shield views of the development from the fields beyond. If an area to the north of the site is left free from housing as illustrated, that too would help relieve the continuity in built form and maintain a break from the main settlement. It would not totally overcome the appearance of the village being extended in linear manner, but the visual impact could be softened significantly especially if more planting is introduced. Again, the layout and landscaping would be a matter for future determination, but it is a useful illustration of how the impact of this number of dwellings is capable of being mitigated.
 15. Inevitably, environmental harm would arise from the loss of open countryside and I note the objections from the Campaign to Protect Rural England. However, as identified in the appellant's submitted Landscape and Visual Review, 2015, the appeal site is very well contained due to the topography sitting within a dip in the wider landscape. The site is seen in the context of existing development to either side to which it more readily relates than the open countryside beyond. Furthermore, given its topography large areas within the site would be undeveloped allowing opportunity for open space and planting which would minimise the impact on the landscape.
 16. Having regard to all of the above, I conclude that there would some albeit very limited harm to the character and appearance of the surrounding area, having particular regard to the pattern of development and its countryside location. Given that there would be some harm, the proposal would be contrary to the general aims of LP Policy GBC14 to improve and conserve local landscape character and LP Policy ENV1 which seeks development compatible with its environment. It would also conflict with the countryside protection aims within Paragraph 115 of the Framework.

Issue 2 - Sustainability

17. The Framework, in Paragraph 7, recognises that there are three dimensions to sustainable development, namely economic, social and environmental. The construction of around 24 dwellings would assist the local economy in terms of labour opportunities and demand for materials and services during construction.

Once occupied it may be anticipated that future occupiers would also support local services providing ongoing economic benefits. From the number of likely occupants this could be significant.

18. The social dimension concerns providing the supply of housing required to meet the needs of present and future generations and accessible local services. In the Statement of Common Ground accompanying the appeal documentation, the parties agree that the Council can only demonstrate 3.4 years of deliverable housing supply. Up to 24 dwellings would provide much needed housing. Until details are submitted it will not be known whether the house types will meet the greatest local need. However, the UU secures 40% of the housing as affordable homes which would make a valuable contribution. Furthermore, the land is available now and the appellant maintains that the scheme would be deliverable within 5 years which weighs in its favour.
19. As the Council acknowledges, existing services and facilities in the village appear to be thriving. Many of these are an easy cycle ride away and within reasonable walking distance with a footway outside the site leading into Puckeridge village centre. There is a small convenience shop with a diverse range of products including fresh and frozen foods. Whilst this is unlikely to suffice for a weekly shop, it offers a good facility for convenience and top-up shopping. There are two public houses, a tearoom, hairdressers/beauticians, garage and petrol station. The village also has primary and middle schools, pharmacy, dentists, medical centre and a recreation ground within 1m. Some of these would be outside the 800m comfortable walking distance cited in the Manual for Streets. Even if a car were used, the trips would be very short.
20. There may be some employment opportunities locally, but most residents are likely to work further afield. Bus services run from relatively nearby to the nearest towns and Stansted Airport. Not all services are hourly and the frequency and duration of journeys is unlikely to be sufficiently convenient for many workers. Railway stations at Ware and Bishop's Stortford are about 10km and 11km respectively which in all likelihood would involve use of the private car to access them. The limitations on public transport impede the social credentials to some extent which otherwise perform reasonably well given the type and range of services within fairly easy reach. It also impacts negatively on the environmental role.

Conclusion on the main issues

21. In terms of the economic dimension of sustainability, I am of the clear opinion that there are benefits which should be apportioned moderate weight. I have found that the development would be reasonably sustainably located in terms of services and facilities. The social benefit arising from the contribution towards housing supply including 40% affordable housing, must carry very substantial weight given the acknowledged housing supply position in the district and the need to boost housing. Its deliverability within the foreseeable future adds to the credentials.
22. I acknowledge that the proposal does not fair particularly well on sustainable transport modes due to the limited availability of public transport options and need to travel by car for work and wider services, such as supermarkets. In addition, there is an issue over the use of land in the open countryside, but the landscape to be lost would not be so valuable as to give rise to more than limited harm. Paragraph 8 of the Framework makes it clear that the three

elements of sustainability should not be taken in isolation as they are mutually dependant. To achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously.

23. Overall, I consider that the appeal site is sufficiently sustainable for the benefits to outweigh the adverse impacts including the small amount of harm to character and appearance and the associated conflicts with the development plan. Therefore, on balance, this would be sustainable development for which there is a presumption in favour.

Planning obligations

24. Whilst contesting the need for some contributions, the appellant has submitted a completed UU dated 6 August 2015 in favour of the Council and Hertfordshire County Council. A planning obligation may only constitute a reason for granting planning permission if it would be necessary, directly related to the development and fairly and reasonably related to it in scale and kind as provided by Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL) and as reiterated in Paragraph 204 of the Framework. The Council has referred to LP Policy IMP1 requiring appropriate provision for affordable housing, open space, recreation and other local infrastructure along with its Planning Obligations SPD (the SPD). The County Council relies on its 'Planning obligations guidance – toolkit for Hertfordshire'. Various appeal decisions have been drawn to my attention to support the payment of contributions. As these will have been decided on their own merits, they have little bearing in this appeal.
25. The UU secures 40% of the units (rounded up to the nearest whole) as affordable housing on a split of 75% social rented and 25% shared ownership. This would accord with LP Policy HSG3 and the SPD. Development would not be permitted to commence until a scheme for a local area for play at the appeal site had been submitted to, and approved in writing by the Council. The delivery of such facilities within open space at the development would offset the need for a contribution towards public parks and gardens pursuant to the SPD. I consider that both obligations meet the CIL tests above.
26. Hertfordshire County Council maintains that the UU is defective in a number of ways. Financial provision is made towards childcare, library, nursery and youth facilities which the County Council no longer requires. It acknowledges that such contribution would fall foul of regulation 123(3) of CIL. This restricts the pooling of contributions towards an infrastructure project once five or more separate planning obligations made on or after 6 April 2010 are already in place. It is thus clear that those contributions are not justified and I have not taken account them into account. There is provision within clause 5 of the UU to relieve the owner of obligation to pay any contribution which is found in this appeal not to be CIL compliant. The remaining obligations in the UU are still capable of taking force and effect.
27. In terms of education, inevitably the construction of more houses would generate more demand for school places. The appellant disputes the need for an education contribution based on statistics showing primary school capacity. A three tier school system operates in the area with the two nearest middle (not primary) schools in Puckeridge and Buntingford currently full. With an outline planning application where precise numbers and mix of housing is not yet known, it is reasonable for financial calculations to be sought by reference to a

sum per dwelling linked to bedroom size depending on whether it is social or market housing.

28. A contribution is sought towards expansion of Ralph Sadleir middle school. The County Council confirms that whilst it has received generic contributions for this type of infrastructure, no planning obligations for this specific project have been entered since April 2010. Whilst it would have been far preferable for the UU to have explicitly referred to this specific project, the County Council has indicated expressly that the monies would be targeted in that way. On that basis I am prepared to accept it, noting that the appellant has not taken issue on this particular point.
29. The County Council complains that the incorrect sums per dwelling for middle schools are shown in the table of figures within the UU. This refers to 'secondary' education rather than middle and upper schools separately as the County Council has done. The sums in the UU are more generous overall than those in the County Council's table. As the UU would meet identified needs, I accept that the obligation would fulfil the tests in regulation 122 of CIL, but in reaching this view I have had no regard to sums exceeding those sought.
30. A healthcare contribution of £15,004 would provide for general medical services by Puckeridge and Standon Medical Practice. This corresponds with the sum sought by NHS England to offset the additional patient demands generated by the proposal, estimated as 58 registrations for primary care. The surgery is identified to be working at over-capacity. Comprehensive details with calculations have been provided to demonstrate the likely impact and measures required to contribute towards GP support and additional space and build cost. The CIL tests are met accordingly.
31. Financial contributions towards outdoor sports facilities and community centres would also be payable by reference to a charge per dwelling related to the number of bedrooms. The SPD contains a standard charge per dwelling for both types of facilities. The Council has identified the need to invest in existing play pitches at the local recreational playing fields. Improvements and an extension to the Standon and Puckeridge Community Centre are also identified. Given the extra demand likely to be placed on those facilities by the proposed scheme, I consider the contributions to accord with CIL.
32. Whilst the UU contains provision for sustainable transport contributions based on a sum per dwelling, I have no information on how the monies would be applied other than generically towards the transport network. Likewise, there are no details on why a £24,000 bus stop improvements contribution would be necessary in this case and how the sums would be used. In the absence of sufficient justification, I am not satisfied that these contributions comply with regulation 122 of CIL and I am unable to take them into account as a result.
33. The County Council is concerned that the trigger for all payments is expressed to be on occupation of 50% of the dwellings. Whilst payment on commencement of development may be desirable, I am mindful of the necessity for the project to gain traction and deliver on sales to fund the package of mitigation measures. A delayed trigger point for payment for this scale of development would be reasonable in the circumstances.
34. The County Council is concerned that the UU omits provision for fire hydrants. It requires these to be provided so that it does not incur the cost as Statutory

Fire Authority. This is capable of being addressed by way of a condition as suggested by the appellant.

35. Finally, the appellant has contested the need for a monitoring fee of £310 payable in respect of each obligation in light of the High Court judgment in *Oxfordshire County Council v SSCLG and others [2015] EWHC 186 (Admin)*. No such provision is made in the UU and its omission would not render the document unacceptable.

Other Matters

36. A number of other concerns have been raised by local residents and the Parish Council. The access would be along a straight stretch of road with reasonable visibility in each direction. There is no substantive evidence that traffic would increase to such an extent as to present traffic flow or parking problems giving rise to highway safety implications. Nor is there evidence to conclude that access at the A120 junction would become hazardous as a result of this proposal. Indeed, I note that the local highway authority has not objected.
37. A condition would address surface water drainage. I realise that there have been issues regarding flooding in the village which are subject to an investigation by the Environment Agency into a potential flood alleviation scheme. The Environment Agency does not consider that the development proposal would affect the outcome of its flood risk assessment work and has raised no objection. I have no reason to conclude otherwise.
38. Occupiers of the neighbouring detached property at 'The Buffalos Head' have raised concerns over privacy and security. At this stage the details of the scheme including layout are yet to be considered. Nonetheless, I consider that development is capable of coming forward without compromising the living conditions of neighbouring occupiers. The layout and future maintenance of the public open space are subject to future consideration.
39. With regard to wildlife, an Ecological Assessment and Reptile Survey accompanied the application. I will impose a planning condition to require compliance with the recommendations contained therein.

Conditions

40. A list of agreed conditions has been submitted by the parties in the event of this appeal being allowed. I have considered these in accordance with the provisions of Paragraph 206 of the Framework and the national Planning Practice Guidance. Where appropriate, I have made amendments for greater clarity and precision and abbreviations where draft conditions contained unnecessary detail. I have omitted any wording enabling the Council to agree alternatives as this would introduce uncertainty.
41. The parties have agreed a reduced time period of 1 year for the submission of details and commencement of development. Since the deliverability of the scheme within the next 5 years has formed a reason for allowing the appeal, a shorter than normal timescale is appropriate. Apart from the reserved matters conditions, it is necessary for the development to be carried out in accordance with the submitted plans for the avoidance of doubt and in the interests of proper planning.

42. A Construction Management Plan will minimise the impact of construction traffic on the local highway network along with disruption to residents as would a restriction on hours of operation during construction. For highway safety, conditions controlling the gradient of the proposed access and approval of details for the extension to the highway kerb line are necessary and reasonable. For environmental protection and human health, conditions are imposed regarding investigation and remediation of any contamination of the site and a restriction placed on infiltration of surface water drainage into the site. To be certain of satisfactory drainage, a condition is necessary for a detailed surface water drainage scheme and maintenance strategy. To protect biodiversity a condition is necessary to ensure compliance with the recommendations within the submitted Ecological Assessment and Reptile Survey. A condition will protect any archaeological remains. As indicated above, I have imposed a condition for the provision of fire hydrants as required by the County Council in the interests of public safety.

Overall Conclusion

43. From my findings above, this would be sustainable development and there would be other benefits in the form of affordable housing provision and on-site open space with play area. The adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. For the reasons given above and, having had regard to all other matters raised, I conclude on balance that the appeal should be allowed.

KR Seward

INSPECTOR

Schedule of 16 Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than one year from the date of this permission.
- 3) The development hereby permitted shall begin not later than one year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: TPMA1034_101 A (*proposed site access arrangement*); P-01-000 P1 (*location plan*); P-02-004 P1 (*existing site plan with topographical survey*); P-02-002 P1 (*parameters plan*).

- 5) No development shall take place until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports have been submitted to and approved in writing by the Local Planning Authority and if appropriate, a commitment to publication has been made.
- 6) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 7) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises outside of the following hours:

0730 hours to 1830 hours on Monday to Friday;
0730 hours to 1300 hours on Saturdays;

and not at any time on Sundays or bank/public holidays.
- 8) Prior to the commencement of development, a detailed surface water drainage scheme and maintenance strategy for the drainage scheme shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based upon the submitted flood risk assessment (Curtins, Ref: TPMA1220/FRA, 29 August 2014) and shall include a restriction in run-off and surface water storage on site. The development shall be implemented in accordance with the approved details.
- 9) The gradient of the access road at the junction with the main road shall not exceed 1 in 20.
- 10) Details of an extension to the kerb line on Cambridge Road to the northern boundary of the development site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details
- 11) Prior to the commencement of development a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

- (i) A site investigation scheme, based on the Phase 1 Detailed Desk Top Study (Curtins, Ref: EB1442/AW/3875, 22 July 2014), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - (ii) The results of the site investigation and detailed risk assessment referred to in (i) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - (iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (ii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - (iv) Any changes to these components require the express written consent of the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 12) No occupation of any part of the development hereby permitted shall take place until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.
- 13) If during development contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy has been submitted to and approved in writing by the Local Planning Authority detailing how the unsuspected contamination shall be dealt with. The remediation strategy shall be implemented in accordance with the approved details.
- 14) No infiltration of surface water drainage into the ground at this site is permitted other than with the express written consent of the Local Planning Authority which may be given to those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.
- 15) The recommendations in section 6 of the Ecological Assessment (dated May 2014, reference RT-MME-116937 Rev A) and section 6 of the Reptile Survey (dated July 2014, reference RT-MME-117164 Rev A) shall be implemented.
- 16) No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority for the provision of fire hydrants at the development. No dwelling shall be occupied until the fire hydrant serving the property has been installed as approved. Thereafter the fire hydrants shall be retained in their approved form.

Appeal Decisions

Site visit made on 10 August 2015

by **Peter Rose BA MRTPI DMS MCMl**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2015

Appeal A Ref: APP/J1915/Y/15/3022938

Riders Grove, Old Hall Green, Standon, SG11 1DN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs L Stock against the decision of East Hertfordshire District Council.
 - The application Ref: 3/14/2267/LB, dated 17 December 2014, was refused by notice dated 4 February 2015.
 - The proposed works are single storey and first floor rear extensions and internal alterations.
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Appeal B Ref: APP/J1915/W/15/3022966

Riders Grove, Old Hall Green, Standon, SG11 1DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs L Stock against the decision of East Hertfordshire District Council.
 - The application Ref: 3/14/2266/FP, dated 17 December 2014, was refused by notice dated 4 February 2015.
 - The proposed development is single storey and first floor rear extensions and internal alterations.
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Decisions

1. **Appeal A** and **Appeal B** are each dismissed.

Procedural Matter

2. There is an inconsistency in the submitted drawings regarding proposed works to the northern elevation. In particular, the proposed layout shows a new window to be inserted in the first floor en-suite room, but this detail is omitted from the proposed elevation. In the absence of elevational details, I am unable to fully consider that element of the proposal but, as the appeals are being dismissed for other reasons, this aspect of the scheme does not require further attention as part of my decision.

Main Issue

3. The main issue in relation to both appeals is the effect of the proposed scheme upon the special architectural and historic interest of Riders Grove, a grade II listed building and, in particular, whether the scheme would preserve the building or its setting or any features of special architectural or historic interest which it possesses.

Reasons

Appeal A

4. The appeal site comprises a large, detached two-storey Georgian villa style building. It is a grade II listed building, and the statutory List Entry dates the building from the nineteenth century. The appellants suggest the building was originally constructed in a rectangular plan form and as a 5-bedroom house.
5. The building is accessed from Old Hall Green and is set well away from the highway in extensive and relatively secluded grounds. The building appears to have had a variety of uses, including as a doctor's surgery, and has been significantly modified and extended from its original form.
6. The significance of the appeal site as a building of special architectural and historic interest relates, amongst other matters, to its quality as an elegant building of Georgian villa design. Notwithstanding alterations to the building, it remains a distinct and impressive building displaying a range of architectural features, including a slate pyramid roof, and historic fenestration, along with the use of good quality materials.
7. Of particular significance are its main front (western) elevation, and its southern elevation. The main elevation is symmetrical with five windows at first floor, and four at ground level separated by a central panelled door. The southern ground floor elevation includes bow windows and central French doors.
8. Whilst the western and southern frontages are particularly impressive, the overall significance of the building relates to its quality as an entity. In this regard, whilst the rear (eastern) and northern elevations of the building are less refined, they form integral parts of the asset and reflect a similar distinct design. The rear elevation is less ornate in its detailing, but contains two projecting side wings. These comprise a two-storey extension of similar design to the main part of the house, and a single storey extension. The appellants suggest the single storey extension may be original and that the two-storey extension was possibly added soon after construction. The rear also displays some variation in eaves levels.
9. The scheme proposes a rear first floor addition above the existing single storey extension similar to the existing two-storey wing, and an L-shaped orangery-style extension between and beyond the two wings. The Council raises no objection to the first floor extension which would be designed to broadly match the existing two-storey extension. I consider that extension would be in-keeping with the original architectural style of the house and would not be harmful to the significance of the listed building.
10. The orangery would be positioned slightly off-centre between the two wings, would infill the intervening space, and would extend beyond the existing building line to the rear. It would be single-storey and would have a predominantly glazed appearance.
11. I do not find the principle of a conservatory-style extension to the rear to be inconsistent with the special interest of the building, and note that such features are not uncommon attached to buildings of this style and age. I also note attempts to relate the particular design to the existing building, including proposed dentils consistent with the southern elevation.

12. Nevertheless, the orangery as proposed would represent a substantial addition to the rear elevation with lantern lights extending to the level of the existing adjacent first floor window cills. The extension, by reason of its scale and design, would appear as an unduly large and dominant imposition upon the building squeezed between and beyond the two wings, rather than as a smaller, more incidental and subservient feature. It would thereby create a cluttered and discordant composition of the rear at variance with the special interest of the building.
13. The proposed glass structure would allow some views through the extension and, whilst the scheme would involve some loss of existing fabric within the rear main wall of the existing rear elevation, I do not consider that loss to be harmful. This loss would involve part of the rear wall, pipework and an undistinguished window which forms part of a fairly mixed and modified pattern of rear fenestration.
14. In terms of the internal works, significant alterations have previously been made to the building's original form. The proposed works would not generally affect those parts of the building which remain most unaltered, including ground floor reception rooms. The scheme would also seek to reinstate the stairs to their original position. Whilst the Council raises no objection to the plan form of the ground floor or to the internal alterations, I note the proposed opening up of the ground floor kitchen/dining/family room would be in contrast to the relatively smaller, regularly shaped, self-contained layout of rooms as existing and so would result in some harm to the historic character of the building.
15. I have also had particular regard to approvals by the Council of an alternative scheme following the decisions which are now subject to this appeal (Council Refs: 3/15/0681/HH and 3/15/0682/LBC). The subsequently approved scheme is comparable in some aspects to the appeal proposal and would provide a similar overall space but with a smaller orangery and an extension to the northern elevation. The internal layout also includes opening up of the ground floor with a family/dining/kitchen/utility area and replacement of the rear window. I find these decisions represent a highly significant fallback position in which the Council has already weighed up the harms and benefits. Further, I observed at my visit that works relating to common aspects of the schemes were already underway.
16. Despite the clear fallback position which the approved scheme provides, it would not involve the same extent of orangery as subject to appeal and would retain space between the two wings. I consider the alternative scheme's more limited and more sympathetic form would thereby be materially different to the appeal proposal and would not incur the same harm to the listed building.
17. I have also noted the appellants' suggestion that the building possibly dates from the twentieth century, and questions raised regarding the merits of its status as a listed building, but do not find that those matters materially affect the existing statutory significance of the listed asset, nor the particular impact of the works as described.
18. Hence I find that the proposed ground floor extension, by reason of its scale and design, would be harmful to the architectural and historic integrity of the listed building, but that the harm would be less than substantial. The National Planning Policy Framework (the Framework) makes a distinction between

development causing substantial harm to the significance of a designated heritage asset, such as a listed building, and development that would lead to less than substantial harm. The Framework requires less than substantial harm to be weighed against the possible public benefits of the scheme.

19. I recognise the scheme would have a number of benefits. It would, in aspects unrelated to the orangery, help to sustain and enhance the significance of the heritage asset in accordance with the advice of the Planning Practice Guidance (the Guidance), and contribute towards its appropriate use as a house. Whilst the scheme would also address the appellants' accommodation needs, and would offer the local housing stock a larger dwelling with improved space, I have found no overall public benefits sufficient to outweigh the less than substantial harm likely to arise to the special architectural and historic interest of the listed building.
20. Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in considering applications for listed building consent, to have special regard to the desirability of preserving the listed building. There is a clear presumption in this duty that preservation is desirable, and I find that the special interest of Riders Grove would be diminished by the proposed scheme and that it would thereby fail to preserve the significance of the listed building.
21. I therefore conclude that the proposed works, by reason of the scale and design of the proposed ground floor extension, would be harmful to the special architectural and historic interest of Riders Grove, a grade II listed building. Accordingly, the scheme would be contrary to the Framework which recognises that heritage assets such as listed buildings are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance. The Framework further states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Appeal B

22. Section 66 of the Act also places a duty upon the decision-maker, in considering applications for planning permission, to have special regard to the desirability of preserving the listed building. My findings of the impact of the scheme upon the significance of the listed building set out in **Appeal A** similarly apply in this regard to **Appeal B**. I find that the development, by reason of the scale and design of the proposed ground floor extension, would be harmful to the architectural and historic integrity of the listed building.
23. The Council's reason for refusal also refers to the impact upon the setting of the listed building. As the proposed works form part of the listed building, I consider the impact to relate directly to the heritage asset itself as described rather than to its setting.
24. As in **Appeal A**, the application for planning permission would similarly fail to accord with the same general expectations of the Framework, and there would be no overall public benefits sufficient to outweigh the harm likely to arise.
25. I therefore conclude that the proposed works, by reason of the scale and design of the proposed ground floor extension, would be harmful to the special architectural and historic interest of Riders Grove, a grade II listed building.

Accordingly, the development would be contrary to Policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review April 2007. These seek, amongst other matters, to ensure that development is of a high standard of design and layout to reflect local distinctiveness, that extensions would not significantly affect the character and appearance of the dwelling, and that the design of extensions should be complementary to the original building. The Framework similarly places great importance upon high quality design and the significance of local distinctiveness.

Other Matters

26. I have considered all other matters raised, including references made to pre-application discussions, and to the absence of third party objections.
27. None of the other matters raised are of such significance, either individually or cumulatively, that they would outweigh the considerations that have led to my conclusions on the main issues.

Conclusion

28. At the heart of the Framework is a presumption in favour of sustainable development. For decision-making, this means approving proposals that accord with the development plan without delay, and I find that the scheme, with regard to the plan as a whole, would not accord with that expectation. Nor would it accord with the duty to have special regard to the desirability of preserving the listed building under sections 16 and 66 of the Act, or with the Framework. These are all considerations to which I am required to attach considerable importance and weight.
29. For the above reasons, **Appeal A** and **Appeal B** are both dismissed.

Peter Rose
INSPECTOR



Appeal Decision

Site visit made on 14 September 2015

by **Clive Tokley MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 September 2015

Appeal Ref: APP/J1915/D/15/3035752

34 Firs Walk, Tewin, Welwyn, Hertfordshire, AL6 0NZ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Daniel Lowe against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/0068/FP, dated 13 January 2015 was refused by notice dated 2 April 2015.
 - The development proposed is demolition of existing front projection and erection of two storey extension, with associated changes to the roof, walls and windows.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:-
 - a. Whether the proposal would be inappropriate development in the Green Belt as defined by the National Planning Policy Framework (The Framework).
 - b. The effect of the proposal on the openness of the Green Belt.
 - c. The effect of the proposal on the character and appearance of the area.
 - d. If the proposal is inappropriate development whether there are any other considerations that clearly outweigh the harm to the Green Belt due to inappropriateness and any other harm and whether very special circumstances exist to justify the development.

Reasons

Inappropriate development

3. The Framework indicates that one of the essential characteristics of Green Belts is their openness and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It indicates that within Green Belts inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. The Framework indicates that within the Green Belt the construction of new buildings is
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normally inappropriate development; however in Paragraph 89 it identifies a range of developments which may not be inappropriate. These include the extension or alteration of a building; provided that it does not result in disproportionate additions over and above the size of original building. The term "original building" is defined in Annex 2 of the Framework as a building as it existed on 1 July 1948 or, if constructed after that date, as it was originally built.

4. The development plan policy concerning the enlargement of dwellings is a combination of policies GBC1 and EN5 of the East Herts Local Plan Second Review April 2007 (the LP). Policy GBC1 indicates that within the Green Belt limited extensions may not be inappropriate and EN5 indicates that outside identified settlements and villages an extension would be expected to be of a scale and size that would either by itself, or cumulatively with other extensions, not disproportionately alter the size of the original dwelling. The LP pre-dates the Framework but the restrictive approach to extensions is consistent with paragraph 89.
5. Neither the LP nor the Framework provides guidance on the determination of whether a proposal is disproportionate; however in each case the concept of "proportionality" demands that each proposal is considered in relation to the size of the original building. I have seen no definition of "original dwelling" in the LP; however the Framework is a more recent expression of national policy and I have therefore considered the proposal using the Framework definition of original building.
6. The planning history in the officer report indicates that the original dwelling was the subject of a 1958 planning permission for a bungalow and that it has been the subject of three subsequent planning permissions. The officer report indicates that the bungalow had a floor area of about 88 sq m and that as a result of the implementation of two of the permissions it has been increased to about 240 sq m. The report indicates that the proposal would result in a floor area of about 300 sq m. The appellant does not challenge the Council's assessment of the floorspace of the original building but indicates that the proposal would result in a floor area of 350 sq m. Using the appellant's figure the proposal would result in an increase in floorspace of about 300%.
7. The appellant is critical of the Council's approach and indicates that an assessment of the proposal should include the "footprint" of the building and its volume. The appellant points out that the footprint of the *existing* building would be reduced by the proposal; however this comparison is not made against the *original* building. The appellant gives no indication of the comparative volumes but to my mind a 300% increase in floor space would be likely to result in an increase in volume of a similar order.
8. Taking account of the policies of restraint in the Green Belt I consider that an increase in size of the original building of in the region of 300% would be disproportionate and the proposal would therefore be inappropriate development as described by the Framework.

Openness

9. The Framework indicates that openness is an essential characteristic of Green Belts. Any above ground development detracts to some extent from openness. Whilst the footprint of the existing building would be marginally reduced its bulk and height would be increased. The proposed extensions would be seen in the context of the existing partly two-storey house and this would limit their impact on openness; however I consider that the increase in height together with the additional bulk of the first floor accommodation at the front of the building would detract from the openness of the area.

Character and appearance

10. Firs Walk forms part of a low density residential area comprising detached dwellings in spacious plots within undulating woodland. The area in the vicinity of the appeal property comprises predominantly bungalows and chalet style dwellings. The dwellings on the east side of Firs Walk are set at a lower level than the road with land levels rising from No 36 through the appeal site to No 32. This results in the roof height of No 34 being roughly the same as that of the bungalow at No 32 and higher than No 36.
11. The addition of a first floor above the forward projection would create a more extensive vertical surface at the front of the house with an almost full-width higher eaves line. The proposal would have a more steeply-pitched "table top" roof that would be both higher and bulkier than the existing dwelling. Whilst set back from the road the extension would increase the prominence of the dwelling when viewed from the road. The height and bulk of the extended dwelling would contrast with the predominantly low-eaves dwellings in the immediate area which have a significantly less assertive presence.
12. I consider that as a result of the height and bulk of the resultant building the proposal would fail to reflect the local distinctiveness of this part of Firs Walk and would therefore conflict with LP policy ENV1 and one of the objectives of the Framework as regards design.

Other considerations

13. The appellant draws attention to an expired 1989 appeal decision granting permission for a two-storey extension at the rear of the appeal dwelling. In that decision the Inspector commented that the large houses and gardens in Tewin Wood resulted in the area being much less sensitive than many areas to house extensions. Whilst that may be so it does not change my view that the proposal before me would be disproportionate and would detract from openness.
14. Reference is also made to a more recent decision concerning No 31 Bishops Road which is a short distance from the appeal property (ref APP/J1915/D/14/2215524). In that appeal the Inspector was faced with two radically different views about the extent of the enlargement with the Council indicating that it would be 124% and the appellant arguing that the figure was 44%. Whilst the Inspector considered that the increase would be "significant" he could not confidently conclude that the proposal would be disproportionate and he therefore determined that the proposal would not be inappropriate development. The circumstances of that proposal contrast with the current

appeal where the figures are clear and I am in no doubt that the increase in size would be disproportionate and that the proposal would be inappropriate development.

15. When carrying out my site visit I saw No 31 and I have noted the Inspector's comments about openness and character and appearance. The inclusion of a number of types of built development within the Framework definition of "not inappropriate" indicates that some diminution of openness in the Green Belt is acceptable and the Inspector's conclusion on "openness" is therefore understandable. However each proposal must be considered on its own merits and the Inspector's conclusions in that appeal as regards those issues do not persuade me that proposal at No 34 Firs Walk would be acceptable.

Conclusion

16. The Framework indicates that substantial weight should be given to any harm to the Green Belt and that the "very special circumstances" to justify inappropriate development in the Green Belt will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

17. The proposal would be inappropriate development that would materially detract from openness and from the character and appearance of the area. I have considered the matters raised by the appellant in support of the proposal but they are not sufficient clearly to outweigh the substantial weight to be given to the harm due to inappropriateness and the other harm to the Green Belt that I have identified.

18. Taking account of all matters I conclude that the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist and that the appeal should not succeed.

Clive Tokley

INSPECTOR



Appeal Decision

Site visit made on 1 September 2015

by **Susan A F Simpson LLB Solicitor (N-P)**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10/09/2015

Appeal Ref: APP/J1915/D/15/3081082

High Trees, 8 Beech Drive, Sawbridgeworth, Hertfordshire CM21 0AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Kristina Anderson against the decision of the East Herts Council.
 - The application Ref 3/15/0087/FP dated 14 January 2015 was refused by a notice dated 12 March 2015.
 - The proposed development is for a first floor rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are the effect of the development upon:-
 - the character and appearance of the area;
 - neighbouring residents' living conditions at 7 Beech Drive with specific reference to visual intrusion.

Reasons

Character and appearance

3. Beech Drive runs parallel to Harlow Road and serves a variety of properties. Although, most of these dwellings are modest in size there are some larger detached houses and two pairs of similarly designed semi-detached properties. No 8, together with its semi-detached pair, benefit from various side and rear extensions that have been sympathetically designed to appear subservient to, and satisfactorily integrate with, the simple appearance of their host dwellings.
4. The present proposal involves the erection of a first floor extension over an existing single storey rear element that lies in proximity to the boundary with the immediate neighbouring semi-detached property (No 7). In contrast to the existing staggered double hipped roof, the proposed 4.8 m deep extension provides for a gable roof with a ridge height almost as high as that of the present two storey side extension.
5. Although constructed in matching materials, the proposed height and design of the roof together with the width of the resulting two storey element that would project beyond the side of the existing house would appear unduly prominent, obtrusive and incongruous. The development would fail visually to integrate with the well proportioned and sympathetic character and appearance of the

host dwelling and its pair. It also would harmfully detract from the otherwise prevailing well designed, coherent and aesthetically pleasing character and appearance of the immediate residential area.

6. I conclude that the proposed development would fail to achieve the high standard of design that is required to enable it to make a positive contribution both to the character and appearance of the host dwelling and the surrounding area. It follows from this conclusion that I find it would be contrary to policies ENV1, ENV5 and ENV6 of the East Herts Local Plan (LP) Second Review April 2007.
7. Amongst other things, these policies expect extensions to existing buildings to:
 - be of a high standard of design and layout and to reflect local distinctiveness;
 - respect the amenity of occupiers of neighbouring buildings; ensure that the character, appearance and amenities of the dwelling and any adjoining dwellings would not be significantly affected to their detriment.

Living conditions

8. No 7 benefits from a narrow single storey rear conservatory and a ground floor kitchen window and first floor bedroom window in its side elevation. These windows and conservatory currently provide partial views across to the flank elevation of the appeal premises. I note that the proposed extension has been designed so that the roof would slope away from its neighbour; be set in from the mutual boundary with No 7 and achieve a stated 4 m degree of separation between the existing flank elevation at No 7 and that for the proposed extension.
9. Even so, No 8 is located on higher ground where the combined height, expanse and proximity of the proposed development to the mutual boundary and dwelling at No 7 would significantly alter the current views. The resulting effect would be an oppressive and overbearing outlook for residents of No 7 both from within the first floor bedroom, kitchen and conservatory but, also, in the outside space to the rear of the dwelling, which is the area most commonly used for sitting out and relaxation purposes.
10. I conclude that the proposed development would cause harm to neighbouring residents' living conditions at 7 Beech Drive, contrary to policies ENV1, ENV5 and ENV6 of the LP. These policies require development to:- respect the amenity of occupiers of neighbouring buildings; to ensure that the character, appearance and amenities of the dwelling and adjoining dwellings would not be significantly affected to their detriment.
11. The conclusions reached in terms of the main issues in the appeal also would render the proposal contrary to Government guidance in the National Planning Policy Framework which states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people; planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters and Conclusion

12. I note the appellant's submission that the development would not be seen from the public domain but, at the time of my visit, the private road was accessible by members of the public, and it would be seen by other residents, their visitors and those providing a variety of services. Having taken into account all the matters that have been raised, I find none alter the conclusion that I have reached that, for the reasons given above, the appeal should fail.

S A F Simpson

INSPECTOR



Appeal Decision

Site visit made on 1 September 2015

by **Susan A F Simpson LLB Solicitor (N-P)**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09/09/2015

Appeal Ref: APP/J1915/D/15/3128669

26 Dove Close, Bishops Stortford, Hertfordshire, CM23 4JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Hannay against the decision of the East Herts Council.
 - The application Ref 3/15/0131/FP dated 27 January 2015 was refused by a notice dated 24 March 2015.
 - The proposed development is for the erection of single storey conservatory.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of single storey conservatory at 26 Dove Close, Bishops Stortford, Hertfordshire CM23 4JD in accordance with the terms of the application, Ref 3/15/0131/FP dated 27 January 2015 and the plans submitted with it, subject to the following conditions:

(1) The development hereby permitted shall begin not later than three years from the date of this decision.

(2) The development hereby permitted shall be carried out in accordance with the following approved plans (bearing a Council stamp date of 27 January 2015) namely; Plan 1 (Elevations- existing and proposed); Plan 2 (Floor plans – existing and proposed); existing block plan; proposed block plan; existing location plan and proposed location plan.

(3) No development shall take place until details of the existing and proposed soft landscape works along the north eastern and part eastern boundaries of the site have been submitted to and approved by the Council. Once approved, the landscaping scheme shall be implemented in accordance with such approved details and within a timetable previously agreed with the Council.

Procedural Matter

2. I have amended the address of the property to reflect its location within the County of Hertfordshire and not Essex as stated in the application form.

Main Issue

3. The main issue in the appeal is the effect of the development upon the character and appearance of the area.

Reasons

4. No 26 is a two storey house that forms part of a modern housing estate located within Bishops Stortford. The large expanse of the flank elevation of the appeal property faces towards the turning head of a cul de sac (Dove Close). Between the footpath and the side of No 26 extends an area of land that widens towards the eastern part of the appeal site where it is contiguous with the rear garden of No 26. This area of land (referred to by the Council as "amenity land") falls within the area edged red on the application/appeal drawings and has been identified as being within the ownership of the appellant.
5. The predominantly "open plan" design concept for the estate has resulted in a generous amount of well maintained soft landscaping that provides a gentle contrast to the amount of hard standing and built development found hereabouts. Whilst most of landscaping and front gardens are open to public view, the layout of some of the properties has necessitated the enclosure of rear gardens with brick walls that abut the back edge of the pavements.
6. The present proposal involves the erection of a conservatory that would project from the rear and side of the house. It is stated that the single storey development would be 3.265 m deep and extend approximately 1.5 m nearer to the road than the existing brick boundary wall enclosing the private garden. Thus, the development would encroach upon part of the "amenity land" where it begins to widen in size.
7. Due to the laurel screening that currently extends along the north eastern and eastern boundaries of the amenity land, only some public views of this area are available when walking in an easterly direction towards No 26. Given these limited views, and the fact that the area is currently being used for the storage of domestic refuse bins, I consider the amenity value of this area of land to be very limited although, I accept, the boundary laurel hedge does make a valuable contribution to the verdant qualities of the estate.
8. I am informed that the side brick wall element of the proposed conservatory would no higher than the boundary brick wall that currently encloses the back garden of No 26 and similar to garden walls of other nearby properties that adjoin the highway. There would be the loss of two trees that form only part of the present laurel screening but, subject to a condition to implement the appellant's offer to provide additional landscaping and, bearing in mind the layout of some of the estate properties, I consider the development would not appear out of place but satisfactorily integrate into its host environment and secure a level of landscaping that would continue to make a significant contribution to the estate.
9. It follows from this conclusion that I find there to be no conflict with policies ENV1, ENV5 and ENV6 of the East Herts Local Plan (LP) Second Review (April 2007) which, amongst other things, require development involving extensions to existing buildings to:- be of a high standard of design and layout; reflect local distinctiveness; be complementary to its setting. Given, also, that the "amenity land" is already enclosed and used in association with the residential use of No 26, I find there to be no conflict with the aims and objectives of LP policy ENV7.
10. Further, the proposal would be consistent with government guidance in the National Planning Policy Framework which states that good design is a key

aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people; planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Conditions

11. I have considered the Council's suggested conditions and agree that, in addition to the time limiting condition, a further one requiring that the development is carried out in accordance with the approved plans will be imposed for the avoidance of any doubt and in the interests of proper planning. For the reasons already given in paragraph 8 above, I shall impose a landscaping condition.

Conclusion

12. I have taken into account all the matters that have been raised but find none alter the conclusion that I have reached that, for the reasons given above, the appeal should succeed.

S A F Simpson

INSPECTOR



Appeal Decision

Site visit made on 1 September 2015

by **Susan A F Simpson LLB Solicitor (N-P)**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 09/09/2015

Appeal Ref: APP/J1915/D/15/3049360

Spring End Cottage, St Johns Lane, Great Amwell, Hertfordshire SG12 9SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr N and Mrs G Branston against the decision of the East Herts Council.
 - The application Ref 3/15/0314/HH dated 11 February 2015 was refused by a notice dated 10 April 2015.
 - The proposed development is for the existing roof structure to be removed and replaced with a pitched mansard roof with a table top construction to create second floor accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is located within the Green Belt. The Council's relevant reason for refusal in this regard refers to policies GBC1 and ENV5 of the East Herts Local Plan (LP) Second Review April 2007. Also relevant, as an important material consideration, is the Government's Green Belt guidance contained in the more recently produced National Planning Policy Framework (the Framework). In essence both national and local Green Belt policies identify that within the Green Belt, the construction of new buildings is inappropriate development except for various specified purposes.
3. The specified purposes within LP policy GBC1 include "*limited extensions or alterations to existing dwellings in accordance with policy ENV5*". As the appellants state that the appeal premises can be considered to fall within a category 2 village, it is submitted that the proposed development only need satisfy the relevant requirement of LP policy ENV5 namely: - that the character, appearance and amenities of the dwelling and any adjoining dwellings would not be significantly affected to their detriment.
4. The Council's planning officer's report does not identify the site as lying within the settlement of Great Amwell but refers to its location as being "isolated" and "rural". Further, the application was determined on the basis of whether the extension would constitute inappropriate development in the Green Belt. In the light of this, there appears to be a dispute between the parties as to the interpretation of the relevant policies and the correct approach for determining the application.

5. However, there is no dispute that the site lies in the Green Belt. Further, the application of national Green Belt policy relating to extensions to dwellings/buildings does not differentiate between Green Belt settlements and the countryside but states that the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building may not be inappropriate development.
6. Having considered the submissions that have been made, I intend to attach greater weight to the up to date government guidance which, in turn, is generally consistent with the approach that has been adopted by the Council in determining this application. Even so, the main issues identified below include similar assessments to those which would necessarily have to be carried out under an application of LP policy ENV5.

Main Issues

7. I consider the main issues in the appeal are:
 - Whether the proposal would be inappropriate development within the Green Belt;
 - The effect of the development upon the openness of the Green Belt and on the character of the area;
 - If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

8. Spring End Cottage is located at the end of St Johns Lane which serves only a limited number of dwellings. Most of these are cottages except for the appeal property and its neighbouring linked pair of two storey dwellings that are of a modern design. The surrounding area has a rural character and during my visit I saw pedestrians using the lane to gain access towards the river that is located due north of St Johns Lane.
9. I note from the planning history of the appeal premises that the Council has granted planning permission for various extensions to Spring End Cottage including a conservatory in 2001 (Ref 3/01/0452/FP) and, more recently, a garden room. I am informed that the 2001 permission has been implemented, but, that prior to its approval, it was identified that the appeal dwelling had been "now extended by about 100%".
10. In the light of this, the erection of the conservatory and the recent approval of the garden room, the dwelling is clearly more than double its original size. Thus, I find that the present proposal would, cumulatively, with other extensions, result in disproportionate additions over and above the size of the original building. I conclude that the development would constitute inappropriate development within the Green Belt for the purposes of national Green Belt policy. Thus, in accordance with the provisions of paragraph 88 of the Framework, I must give this harm to the Green Belt substantial weight.

The effect upon the openness and character of the Green Belt

11. Paragraph 79 of the Framework states that the Government attaches great importance to the Green Belts and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
12. Due to its large size, the two storey appeal dwelling has a much greater presence than the modest cottages and the adjoining linked houses with their shallow roofs. The present proposal would increase its height by about 0.7 m and, together with the incorporation of the dominating front dormer windows, would materially increase the mass and bulk of the dwelling. I have no doubt that the actual and visual impact of these significant changes would appreciably reduce the openness of the Green Belt which is one of its most important attributes.
13. Thus, the development would result in the appearance of a much larger, three storey building than the current dwelling on the site and the other prevailing more discreet properties nearby. It would appear unduly prominent and obtrusive and be out of place and significantly change and detract from the open and rural characteristics of the area. This harm to the character of the area and the openness of the Green Belt adds further significant weight against the development.
14. The appellants submit that their dwelling is not prominent in public views but it is visible by others living down the lane, their visitors, and users of the public footpath. Even so, I do not consider this to be a good argument in principle. Open means an absence of the built form regardless of how well a development is hidden from view. The lack of visual impact is an argument that could be repeated too often to the overall detriment of the openness of the Green Belt. I therefore attach very little weight to this submission.
15. The appellants also state that the appeal site lies within a conservation area and this designation is confirmed by the Council in its replies to the appeal questionnaire. However, I have been provided with a copy of a plan relating to the Stanstead Abbots Conservations Area but, note, that reference is made in the appellants' statement to the site lying within the Great Amwell Conservation Area. Also, neither party has provided me with evidence regarding an appraisal or the essential characteristics of the conservation area in order for the statutory duty under S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to be properly applied.
16. Reference is made to the provisions of LP policy H5 relating to extensions to unlisted buildings in conservation areas but I have not been provided with a full copy. Even so, it follows from my conclusion on the impact of the development upon the openness and character of this area of Green Belt that the proposal also would be in conflict with the thrust of the appellants' quoted extracts from LP policy H5.
17. I further note the appellants' argument that the Council's approval of the extension relating to the garden room and the refusal of the present proposal (when both applications were submitted simultaneously) is irrational. However, having noted these views, I find they do not affect my decision on the planning merits of the appeal and, thus, little weight has been attached to this point.

18. The Council's second reason for refusal details its inability properly to consider the planning merits of the application due to the lack of information regarding the potential presence of bats in the roof space of the dwelling. Paragraph 99 of Circular 06/2005 states that "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted."

19. The appellants acknowledge the need for a survey and, in its absence, I am unable to assess whether significant harm to any bats from the development can be avoided in this case. Thus, in the absence of any exceptional circumstances to justify coverage of this issue through the use of conditions, I conclude that, in accordance with paragraph 118 of the Framework, this is a further reason to refuse planning permission and to add further weight against the development.

Whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

20. Having taken into account all the matters raised, I find there are no considerations that are sufficient to clearly outweigh the substantial harm caused to the Green Belt by reason of inappropriateness; the loss of openness to the Green Belt; the harm to the character of area and the other harm I have identified. Thus, I conclude that the very special circumstances necessary to justify the development do not, therefore, exist.

Conclusion

21. My overall conclusion is that, for the reasons given above, the appeal must fail.

S A F Simpson

INSPECTOR